

REMARKS

Claims 1-30 are pending in the application. Claims 3-5 and 21-23 were noted to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, second paragraph, and to include all of the limitations of the base claims and any intervening claims. Claims 7-10, 14-17, 19 and 25-28 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, 6-20, 24-30 were rejected under 35 U.S.C. §102(b) over Mandler '400.

By this Amendment, claims 7, 14, 18 and 25 have been canceled; claims 1, 3-5, 8-10, 12, 15-17, 19, 21-23, and 26-28 have been amended; and new claims 31-39 have been added.

A. Amendment to the Specification

The Office Action objected to the specification at page 17, line 12 because the phrase "collecting payment the some period of time" contained therein was confusing. The specification has been amended to correct this confusion.

It is submitted that the amendment to the specification is fully supported by the application as originally filed and adds no new matter.

B. Claims Indicated as Allowable

The allowability of the subject matters defined in claims 3-5 and 21-23 are acknowledged with appreciation.

Claims 3-5 were indicated as allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Claims 3-5 have been rewritten in independent form. Thus, claims 3-5 should be allowable.

Claims 21-23 were indicated as allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph and to include all of the limitations of the base claim and any intervening claims. Claims 21-23 have been rewritten in independent form and with proper antecedent basis. Thus, claims 21-23 should be allowable.

C. Section 112 Rejections

Claims 7-10, 14-17, 19 and 25-28 were rejected under 35 U.S.C. §112, second paragraph.

Claims 7, 14 and 25 have been canceled. Thus, the rejections as to those claims are moot.

Claims 8, 9, 10, 16, 17, 19 and 26-28 have been amended to clarify the claims and to provide proper antecedent basis thereto. Claims 9, 15, 16 and 27 have also been amended to correct the minor typographical errors noted in the Office

Action. Therefore, as amended, these claims particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

D. Section 102 Rejections

1. Claims 1, 2, 6, 8-11, 19, 20, 24 and 26-28

Amended claims 1 and 19 are directed to a method for providing an auction. Each of claims 1 and 19 includes the step of,

providing a guarantee via a **factoring agreement** by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller.

By this step, an auction may be provided, among other things, that advantageously offers the security and fraud-avoidance benefits that may accompany a factoring agreement.

In contrast, Mandler '400 is directed to a method of qualifying a buyer for acquiring credit and purchasing goods in a business to business transaction. According to Mandler '400, the buyer submits an application to the clearinghouse that evaluates its credit information and assigns the buyer's risk classification and credit limit. See, col. 6, line 54 - col. 7, line 3. Based on the buyer's risk classification, a discount fee that will be charged to a seller for a subsequent sale of goods to that buyer is established. "[T]he discount fee

represents the risk-based pricing to the seller 10 based on the credit risk actually presented by the buyer 20. See, col. 7, lines 9-11. If the buyer is qualified, the buyer may issue a request for quote (RFQ) to the clearinghouse. See, col. 7, lines 17-21. The clearinghouse distributes the RFQ to potential sellers and collects responsive quotes. See, col. 7, lines 29-42. The buyer may then issue one or more purchase orders (PO) to the responsive seller(s). See, col. 7, lines 42-44. Once the seller(s) accepts the PO, the goods are shipped, and the clearinghouse invoices the buyer and pays the seller(s). See, col. 7, line 55 - col. 8, line 9.

Hence, Mandler '400 does not disclose a guarantee via a factoring agreement by a financial institution. Mandler '400 describes a method of providing credit to a buyer and assigning a discount fee to be charged based on the buyer's risk classification.

To anticipate a claim, a reference must teach every element of the claim. MPEP §2131.01. Since Mandler '400 fails to disclose a guarantee via a factoring agreement by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller, claims 1 and 19 are not anticipated thereby.

Claims 2, 6 and 8-11, depending on claim 1, should also be allowable in part as depending upon an allowable base claim. Claim 8 further includes the step of wherein at least one seller applies online for the guarantee by the financial institution prior to posting the goods or services for sale at the auction. Such a step, as described more fully in section D2 below, may provide more flexibility in the way sellers may do business. Such a step is not described in Mandler '400.

Claims 20, 24 and 26-28, depending on claim 19, should also be allowable in part as depending upon an allowable base claim. Claim 26 further includes the step of wherein at least one seller applies online for the guarantee by the financial institution prior to posting the goods or services for sale at the auction. Such a step is not disclosed in Mandler '400.

2. Claims 12, 13 and 15-17

Amended claim 12 is directed to a method of providing an auction including the steps of,

providing a guarantee by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller;

wherein the at least one seller applies for the guarantee by the financial institution prior to posting the goods or services for sale at the auction.

Providing a guarantee to pay at least a portion of the payment due from the winning buyer to the seller prior to posting the goods or services for sale at the auction provides more flexibility in the way sellers may do business and participate in an auction.

The method of Mandler '400 describes that the buyer submits an application with the clearinghouse so that the buyer's credit information may be evaluated and its risk classification determined. The discount fee is based on the amount of risk posed by the buyer. In this way, Mandler '400 describes a risk-based discount fee charged to the seller that is based on the credit-risk presented by the buyer. See, col. 13, lines 29-31. The seller in Mandler '400 merely responds to a RFQ and provides a responsive quote. Thus, Mandler '400 fails to describe that the seller submits any application, much less an application for a payment guarantee prior to posting the goods or services for sale at the auction, as recited in claim 12.

As Mandler '400 does not disclose providing a guarantee by a financial institution to pay least a portion of the payment due from the winning buyer to the seller, wherein the at least one seller applies for the guarantee by the financial institution prior to posting the goods or services for sale at the auction, claim 12 is not anticipated thereby.

Claims 13, 15-17, depending on claim 12, should also be allowable in part as depending upon an allowable base claim.

E. New Claims 31-39

New claims 31-39 have been added by this Amendment. Dependent claim 31, depending on claim 1, should be allowable as depending upon an allowable base claim. Claim 31 includes the limitation wherein the guarantee by the financial institution extends to the auction and a second auction. Such a limitation provides more flexibility in the way sellers may do business. Mandler '400 does not describe such a method.

New claim 32, as well as claims 33-34 depending thereon, include the step of providing a guarantee via a factoring agreement by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller. As described in section D1 above, the cited patent does not disclose such a method.

Claim 35, as well as claims 36-39 depending thereon, include the steps of providing a plurality of factoring agreements to a seller, wherein the seller posts goods or services to be sold at the auction, and wherein each factoring agreement guarantees the seller payment of at least a portion of the funds due from a sale in the auction, and binding the seller

to a factoring agreement. As described above, the cited patent does not describe such a method.

F. Conclusion

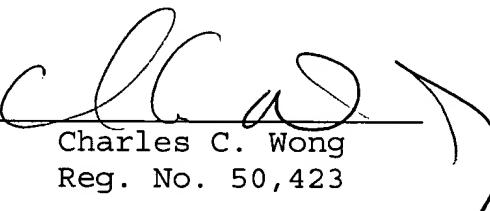
Therefore, it is respectfully submitted that claims 1-6, 8-13, 15-17, 19-24, and 26-39 are allowable and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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**VERSION OF REPLACEMENT PARAGRAPHS WITH MARKINGS TO SHOW CHANGES**

**MADE**

On page 17, lines 11-17:

The alternative scenario is where seller 40 is unsuccessful in collecting payment from the buyer 50 during the [some] period of time provided for in agreement 32 as shown in step 318. Here, seller 40 may provide factor 30 with information pertinent to the collection attempts and may request payment from factor 30 as shown in step 320. At this point, factor 30 follows through on the guaranteed payment as in step 322 thereby serving to avoid fraud on the seller 40 who delivered the goods or services as originally posted at the auction but was not paid therefor.

**VERSION OF CLAIMS WITH MARKINGS TO SHOW CHANGES MADE**

1. (Amended) A method for providing an auction,  
comprising:

providing at least one seller that posts goods or services  
to be sold at the auction;

providing one or more buyers to bid on the goods or  
services;

providing an auction manager to conduct the auction wherein  
the one or more buyers bid on the posted goods or services;

designating a winning buyer; and

providing a guarantee via a factoring agreement by a  
financial institution to pay at least a portion of the payment  
due from the winning buyer to the seller.

3. (Amended) [The method of claim 2] A method for  
providing an auction, comprising:

providing at least one seller that posts goods or services  
to be sold at the auction;

providing one or more buyers to bid on the goods or  
services;

providing an auction manager to conduct the auction wherein  
the one or more buyers bid on the posted goods or services;

designating a winning buyer; and  
providing a guarantee by a financial institution to pay at  
least a portion of the payment due from the winning buyer to the  
seller;

wherein the financial institution is a factoring entity, a  
bank or a credit assurance company; and  
wherein the guarantee is a single transaction factoring  
agreement.

4. (Amended) [The method of claim 2] A method for  
providing an auction, comprising:

providing at least one seller that posts goods or services  
to be sold at the auction;

providing one or more buyers to bid on the goods or  
services;

providing an auction manager to conduct the auction wherein  
the one or more buyers bid on the posted goods or services;

designating a winning buyer; and

providing a guarantee by a financial institution to pay at  
least a portion of the payment due from the winning buyer to the  
seller;

wherein the financial institution is a factoring entity, a  
bank or a credit assurance company; and

wherein the guarantee is a no-loan factoring agreement.

5. (Amended) [The method of claim 2] A method for providing an auction, comprising:

providing at least one seller that posts goods or services to be sold at the auction;

providing one or more buyers to bid on the goods or services;

providing an auction manager to conduct the auction wherein the one or more buyers bid on the posted goods or services;

designating a winning buyer; and

providing a guarantee by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller;

wherein the financial institution is a factoring entity, a bank or a credit assurance company; and

wherein the guarantee is a loan factoring agreement.

8. (Amended) The method of claim 1 wherein the at least one seller applies online for the guarantee by the financial institution prior to posting the goods or services for sale at the auction.

9. (Amended) The method of claim 1 wherein at least one of the one or more buyers applies [apply] online for a credit check prior to bidding on the goods or services for sale at the auction.

10. (Amended) The method of claim 1 wherein a portion of the payment due from the winning buyer to the seller [sale price of the goods or services sold at the auction] is paid to the auction manager and/or financial institution.

12. (Amended) A method for providing an auction, comprising:

providing at least one seller that posts goods or services to be sold at the auction;

providing one or more buyers to bid on the goods or services;

providing an auction manager to conduct the auction wherein the one or more buyers bid on the posted goods or services;

designating a winning buyer; and

providing a guarantee by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller; [the winning buyer with a period of time in which to inspect the auctioned goods or services before payment is due]

wherein the at least one seller applies for the guarantee  
by the financial institution prior to posting the goods or  
services for sale at the auction.

15. (Amended) The method of claim 12 [14] wherein the at least one of the seller[s] applies online for the guarantee by the financial institution.

16. (Amended) The method of claim 12 wherein at least one of the one or more buyers applies [apply] online for a credit check prior to bidding on the goods or services for sale at the auction.

17. (Amended) The method of claim 12 wherein a portion of the payment due from the winning buyer to the seller [sales price of the goods or services sold at the auction] is paid to the auction manager and/or the financial institution.

19. (Amended) A method for providing an auction, comprising:

providing at least one seller that posts goods or services to be sold at the auction;

providing one or more buyers to bid on the goods or services;

providing an auction manager to conduct the auction wherein the one or more buyers bid on the posted goods or services;

designating a winning buyer;

providing a guarantee via a factoring agreement by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller; and

providing the winning buyer with a period of time in which to inspect the [auctioned] goods or services before payment is due.

21. (Amended) [The method of claim 20] A method for providing an auction, comprising:

providing at least one seller that posts goods or services to be sold at the auction;

providing one or more buyers to bid on the goods or services;

providing an auction manager to conduct the auction wherein the one or more buyers bid on the posted goods or services;

designating a winning buyer;

providing a guarantee by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller; and

providing the winning buyer with a period of time in which to inspect the goods or services before payment is due;

wherein the financial institution is a factoring entity, a bank or a credit assurance company; and

wherein the guarantee is a single transaction factoring agreement.

22. (Amended) [The method of claim 20] A method for providing an auction, comprising:

providing at least one seller that posts goods or services to be sold at the auction;

providing one or more buyers to bid on the goods or services;

providing an auction manager to conduct the auction wherein the one or more buyers bid on the posted goods or services;

designating a winning buyer;

providing a guarantee by a financial institution to pay at least a portion of the payment due from the winning buyer to the seller; and

providing the winning buyer with a period of time in which  
to inspect the goods or services before payment is due;  
wherein the financial institution is a factoring entity, a  
bank or a credit assurance company; and  
wherein the guarantee is a no-loan factoring agreement.

23. (Amended) [The method of claim 20] A method for  
providing an auction, comprising:  
providing at least one seller that posts goods or services  
to be sold at the auction;  
providing one or more buyers to bid on the goods or  
services;  
providing an auction manager to conduct the auction wherein  
the one or more buyers bid on the posted goods or services;  
designating a winning buyer;  
providing a guarantee by a financial institution to pay at  
least a portion of the payment due from the winning buyer to the  
seller; and  
providing the winning buyer with a period of time in which  
to inspect the goods or services before payment is due;  
wherein the financial institution is a factoring entity, a  
bank or a credit assurance company; and  
wherein the guarantee is a loan factoring agreement.

26. (Amended) The method of claim 19 wherein the at least one seller applies online for the guarantee by the financial institution prior to posting the goods or services for sale at the auction.

27. (Amended) The method of claim 19 wherein at least one of the one or more buyers applies [apply] online for a credit check prior to bidding on the goods or services for sale at the auction.

28. (Amended) The method of claim 19 wherein a portion of the payment due from the winning buyer to the seller [sales price of the goods or services sold at the auction] is paid to the auction manager and/or financial institution.